IN THE HIGH COURT OF HIMACHAL PRADESH
SHIMLA

RSA 483 of 2006.

Date of decision June 1, 2007.

Smt. Bimla Devi ….**Appellant.**

Versus

Sh. Sardool Singh and others ….**Respondents.**

Coram

The Hon'ble Mr.Justice Dev Darshan Sud, J.

Whether approved for reporting?[1]

For the appellant: **Mr. G.R.Palsra, Advocate.**

For the Respondents: **Mr. Bimal Gupta, Advocate.**

Dev Darshan Sud, J. (Oral).

This is the defendants appeal against the concurrent findings of the two Courts below. The plaintiff- respondent had instituted a suit in the Court of the learned Civil Judge (Senior Division), Kullu, praying that:

> **"i) that defendant No. 1 may be restrained from interfering in the ownership and possession of the plaintiffs and proforma defendants No. 2 and 3 over the land measuring 0-12-6 bigha comprised in khasra**

[1] ***Whether reports of Local Papers may be allowed to see the judgment?***

No. 1594/984 contained in Khatouni No. 568 of Khata No. 325 min incorporated in Jamabandi for the year 1996-97 of Phati Khokhan, Kothi Khokhan, Tehsil and District Kullu and further from encroaching upon the same in any manner and still further from raising any sort of construction over the said land by way of issuance of permanent prohibitory injunction;

ii) that decree for possession of 5 bishwa land which in the attested copy of the report/tatima of the local commissioner, attached with the plaint is shown by khasra No. 1592/984/1 by way of demolition of the construction raised thereon, may also be passed in favour of the plaintiff and against the defendant No. 1;

iii) that costs of the suit may be awarded to the plaintiffs;…….”

The suit of the plaintiff was decreed by the learned trial Court granting injunction against the appellant – defendant holding that she is a stranger to the land for which the relief is claimed. On the second prayer of the plaintiff relating to khasra No. 1592/984/1, learned trial Court declined to grant any relief. An appeal was filed in the Court of the learned District Judge challenging the refusal of the trial Court to grant

relief for the portion of land comprised in khasra No. 1592/984/1. It was held that refusing a decree for possession of this land as prayed for was not in accordance with law. To arrive at this conclusion, the learned appellate Court discussed the entire documentary and oral evidence in detail.

From the record of the case, the defendant/appellant has not been able to establish as to how she has a superior possessory title than the plaintiffs- respondents. The judgment of the learned District Judge is based on cogent and proper appreciation of evidence before it. The appellate Court being the final Court of fact, there is no perversity in the findings. No question of law, much less substantial question of law arises for determination in this appeal which is dismissed. There shall be no order as to costs. All Civil Miscellaneous Applications shall stand dismissed.

June 1, 2007 (PC). (Dev Darshan Sud), J.